

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

JOHN WILCOX,

Plaintiff,

v.

1:19-cv-00296-KWR-GJF

MANAGEMENT AND TRAINING
CORPORATION, WARDEN R.
MARTINEZ, DOES 1-10, SERGEANT
ALAYA, EBETH MARTINEZ-CRUZ,
and DEPUTY WARDEN SIMMONS, all
in their official and individual capacities,

Defendants.

ORDER ADOPTING MAGISTRATE JUDGE'S
PROPOSED FINDINGS AND RECOMMENDED DISPOSITION

THIS MATTER is before the Court upon the Magistrate Judge's Proposed Findings and Recommended Disposition (PFRD) (**Doc. 52**), which was filed on January 24, 2022. The PFRD reached the following conclusions:

Defendants did not violate Plaintiff's constitutional rights and are entitled to summary judgment on Plaintiff's claims because (1) Defendants' approved vendor policy [for softbound books that were mailed directly to inmates] was constitutional, (2) Defendants lawfully deprived Plaintiff of his book [from a non-approved vendor], and (3) Defendants treated Plaintiff the same as other similarly situated inmates.

Doc. 52 at 17-24. Consequently, the PFRD recommended granting Defendants' Motion for Summary Judgment (**Doc. 45**) and dismissing Plaintiff's Amended Complaint (**Doc. 22**) and this case with prejudice. The PFRD also notified the parties of their ability to file objections within

fourteen days and warned them that the failure to file objections would waive appellate review. **Doc. 52 at 25.** The fourteen-day deadline has now expired without either party filing objections.¹

The Tenth Circuit has held that “a party’s objections to the magistrate judge’s report and recommendation must be both timely and specific to preserve an issue for de novo review by the district court or for appellate review.” *United States v. One Parcel of Real Property*, 73 F.3d 1057, 1060 (10th Cir. 1996). The parties’ failure to timely object to the Magistrate Judge’s Proposed Findings and Recommended Disposition waives appellate review of both factual and legal questions. *In re Key Energy Res. Inc.*, 230 F.3d 1197, 1199–1200 (10th Cir. 2000); *One Parcel of Real Property*, 73 F.3d at 1059. Furthermore, having reviewed the record and the briefing on Defendants’ Motion, the Court concurs with the findings, analysis, and conclusions in the PFRD.

IT IS THEREFORE ORDERED that the PFRD (**Doc. 52**) is **ADOPTED**, Defendants’ Motion for Summary Judgment (**Doc. 45**) is **GRANTED**, and Plaintiff’s Amended Complaint (**Doc. 22**) and this case are **DISMISSED WITH PREJUDICE**.

IT IS SO ORDERED.


KEA W. RIGGS
UNITED STATES DISTRICT JUDGE

¹ As Plaintiff is an incarcerated inmate, the Court delivered the PFRD to him by first-class mail at his last-known address. Before filing this Order, the Court also waited well past the 14-day objection deadline in view of the delay that inmates sometimes experience in sending documents through the U.S. Mail. Having granted Plaintiff sufficient additional time, the Court finds and concludes that Plaintiff has failed to timely object to the PFRD.